Department of Revenue

OFFICE of the Board of Revenue.

STATION Madras

Rec. Mis. **No.** 2595

Dated 12-9-39

Allowances – Taadik – (South Kanara) – Goondapu
Tk. – Patara Durga Parameshwari Dev at Kulavi
Lgc. – Readmission of the distribution and paym
Arrears – Orders passed – G.O Communicate

BOARD OF REVENUE
28 JAN 1939
MADRAS

GOVERNMENT OF MADRAS

9576

REVENUE DEPARTMENT.

Allowances - Tasdik - (South Kanara) - Coondapur Taluk - Patala Durga Parameshwari Devi at Kulanji village - Payment of arrears - Petition from the Trustee, dated 11th January 1939.

ENDORSEMENT:- No.278 B/39-1, dated 24th January 1939.

Referred to the Board of Revenue for remarks.

S.J.Augustus,

Assistant Secretary to Government.

To

The Board of Revenue.

F o r w a r d e d.
(By Order)

P Krishnan 26/1/39
Superintendent.

M.A.D:-25-1-39.

The Secretary to the Govt. of Madras,

Revenue Department, Fort St.George, Madras.

Humble petition of B.Subba Rao, son of
B. Mahabaleshwaraya, residing in Basrur Village
Coondappor Taluk, South Kanara District.

Most Respectfully sheweth as follows:-

The petitioner is the trustee of Religious Institution - No.429 'PATALA DURGA PARAMESHWARI' temple of Kulanji Village, Coondapo Taluk drawing a tasdik allowance of Rs.24/- per annum from Government under the Beriz deduction system. In the matter of payment of - arrears of allowance due to the institution held in deposit by Govt. the petitioner submitted a petition to the Government of Madras on 4-2-1938. The Government was however pleased to order in its endors ment No.1043/38-1, dated 5th March 1938 that the petitioner should - address his request first to the Collector of South Kanara and also t the Board of Revenue before approaching the Government and that copie of the petitions addressed to those authorities and of the orders - passed thereon by them should be annexed to the petition addressed to Government.

2. The petitioner submits that he accordingly submitted to the Collector petition dated 31-3-1938. The Collector however rejected the petition in his order L.Dis.No.2089, dated 16-5-1938 remarking that there were no good grounds to move the Board again in the matter. The petitioner then submitted a petition dated 27-8-1938 to the Board of Revenue Land Revenue but the Board also rejected the petition in its proceedings L.Dis.4287/38 dated 31-10-1938 saying that no new facts had been adduced for a reconsideration of the orders already passed. Copies of the petitions sent to the Collector and the Board of Revenue and the orders passed thereon by those authorities are here in enclosed. It is now the petitioner's turn to place his case befor the Government as ordered in Government's endorsement 1043 B/38-1, dated 5-3-1938.

3. The facts of the case have been stated at full length in the petitioner's first petition to Government and all the arguments in his

favour have been stated in the petitions addressed to the Collector and the Board of Revenue. He does not therefore think it necessary to narrate them again in this petition. The Government may be kind enough to take into consideration all the facts and arguments stated in the above petitions.

4. The Collector remarks that the grounds adduced by the petitioner are not good. In what way they are not good the order does not say. The Board in its turn says that no new facts have been adduced for a reconsideration of the orders already passed. What new facts there can be the petitioner fails to understand. The petitioner's point is that the grounds already urged are as good as can be and no new facts can and need be adduced. His contention is that both the Collector and the Board of Revenue have not properly considered the facts already adduced.

5. The main point for consideration in this case is that B.S.O. 67 para.7 (ii) lays down that after an institution which had been struck off the registers for failure to claim tasdik for more than six years is readmitted all the arrear allowances due to the institution should be repaid if the institution is a religious institution provided that the services in the institution have been regularly performed and the building of the institution has been in good order during the period for which the allowance is in arrears. All questions as to whether there was any default in applying for repayment of tasdik should be decided before re-admitting the institution. After readmission the only points to be looked into are (1) whether the allowance is allowed for a religious institution or is a personal allowance (2). If for a religious institution whether services have been regularly performed and (3) whether the building of the institution has been in repairs. After the institution has been readmitted by a competent authority the Collector or the Board of Revenue or any other authority is estopped from raising the question whether there has been any neglect in obtaining a sanad or applying for repayment of the allowance in time. In the case now in question the Institution is admittedly a Religious Institution and the records of enquiry held by the Revenue Authorities have conclusively proved that the services have been regularly performed and the

building has been in repairs during the period for which the allowances are in arrears and are now claimed. The Collector and the Board of Revenue have either failed to note this rule or if they have noted it they act against it which the petitioner submits is opposed to all principles of equity.

6. Another point for consideration is whether the Government is legitimately entitled to the arrears now in deposit. The fundamental rules of the Government is that all amounts to which the Government is not legitimately entitled should be refunded. This tasdik allowance was allowed to the Institution in lieu of lands belonging to the Institution resumed by Government. The allowance was at first paid by assignment of land revenue of a certain warg under a title deed issued by the Inam-Commissioner but subsequently ordered to be paid under Beriz deduction system from the Revenue ~~Collectors~~ collections of the village as consented by the then trustee. The trustee consented only to the change in the mode of payment. This consent does not tentamount to a surrender of the Institution's right to arrears to which it is entitled under the Limitation Act.

7. The petitioner's legal advisors are definitely of opinion that the Institution's claim is valid for the allowance due for at least the past 12 years from the date of claim and the petitioner begs to submit that he is bound as a trustee to resort to civil litigation in the interest of the institution if his grievances do not meet with redress at the hands of the Government.

8. In conclusion, the petitioner most humbly prays that the benign Government may be graciously pleased to order the payment of all the arrears held in deposit or small portion of it as is not barred by limitation. For which actof justice, the petitioner will ever remain grateful.

Basrur, dated 11-1-1939.

Petitioner.

C.F. 16

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

DESPATCHED
8-MAR 1939

SUBJECT:— Allowances – Casolik – (South Kan Coondapur Tk. – Patala Durga Parameshwari Dev at Kulanj Vge. – Payment of arrears – Pet from the trustee – Report submi

READ AGAIN ____, dated ____ 19____.

" " ____ " ____ 19____.

READ *ALSO*:—

C.I.C.f. No. I.576 From the Govt. Revdt. Rev. No 278 B/39-1 dated 24-1-1939. Q

" ____ " ____ " ____ " ____ 19____.

" ____ " ____ " ____ " ____ 19____.

~~Order — Mrs.~~ ~~Resolution Revt.~~ No. Rej. I. 576/39-1, dated 6-3-1939.

The Board submits the following report with reference to the endorsement from Government read above:—

2. A beriz deduction of Rs. 24 is payable annually for the institution of Patala Durga Parameshwari Dev at Kulanji Vge in Coondapur Tk, ~~South Kanara Dt.~~ The allowance was struck off the registers in the Collector's D. Dis. No. 5379-29 dated 21-6-29 under B.S.O. No. 67-1(7) for failure of the trustee to claim the allowance for more than six years. The petitioner applied to the H.R.E Board, Madras for a Sanad

in Sep. 1935 and was appointe
as trustee of the temple in 1936
He then applied to the Collect
for the readmission of the ta
~~institution~~ and payment o
arrears left undrawn. In
B.P. His. No. 3298 dated 20-10-3
the Board Sanctioned the re-
admission of the allowance in favour
institution
from fasli 1345, the year in wh
the petitioner applied for the
Savad as recommended by
the Collector.

3. The petitioner subsequent
applied for the payment of all
the arrears from fasli 1330 fro
which year the allowance ha
remained undrawn. The Col
in his D. Dis. No. 2089/38 dated
16-5-38 disallowed the petitione
claim and rejected the petition as the records showed
that the failure to claim the
arrears arose out of neglect
and not from any disability a
informed the petitioner that
there were no good grounds to
move the Board again in the

matter ~~and so reject the petition~~

p.4.1-5 (M) ~~4th August 1938~~ The petitioner put in a petition to the Board for the payment of arrears of ~~the said~~ the allowance from fasli 1330 or for the 12 years prior to fasli 1345.

thereupon

portion A at p. 5 (M)

~~The petition was referred to the Collector for remarks with reference to the provisions of B.S.O. No. 67-1(7).~~ The Colr. reported on the file that the allowance was struck off the registers with reference to the provisions of B.S.O. No. 67-1(7) as the whereabouts of the then mokteasor were not known and as he was said to be residing over the ghauts and because the failure to claim the allowance in time arose out of neglect and not from any disability - Vide ~~B.S.O. No. 67-1(7)~~

p. 444 B.S.O. Vol II

~~and that the petitioner's claim for the payment of the arrears was disallowed in his proceedings Dis. No. 2089-38 dated 16-5-38~~

p 79 (M)

p. 444 BSO Vol II

p 130 (M) The Board rejected the petition in its proceedings Dis. No. 4287/38 dated 31-10-38 as no new facts had been ~~adduced for a reconsideration of the orders already passed in the circumstances~~ by the petitioner for interference with the Colr's order by the Collector.

~~4/5 For these reasons~~ 4. In view of the facts mentioned above the Board submits that the

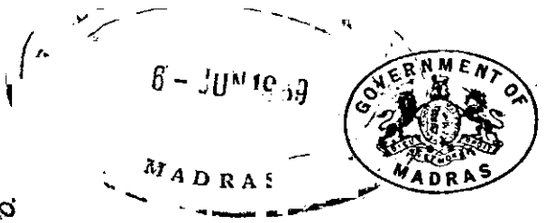
petition deserves no consideration.

~~audit may be rejected~~ ...

ARS
23/2 Gd
24/2/39
3/5

Kw
4/3/39

To the Secretary to Government
Revenue Department.



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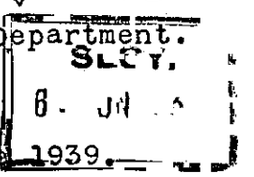
Revenue Department.



MEMORANDUM No. 278 B/39-2, dated 2nd June 1939.

****

Allowances - Tasdik - (South Kanara) - Coondapur taluk - Patala Durga Parameshwari Dev at Kulanji village - Payment of arrears - Petition from the trustee - Report.

Board's Ref. I. No. 576/39-1, dated 6th March 1939.

Under the orders in G.O. No. 2450, Revenue, dated 14th August 1913, the Board of Revenue has power to sanction the re-admission of lapsed allowances irrespective of the period for which allowances had been undrawn, provided that the failure to claim e amount arose from disability and not from neglect. In the se of allowances so re-admitted, the Board of Revenue has power sanction the payment of arrear claims if the institution was in od order or the service was properly rendered during the period r which the allowances were left undrawn.

2. In the present case, the Board of Revenue holds that the ilure to claim the allowance in time arose out of neglect and t from any disability. The Board of Revenue had, therefore, power to readmit the claim but should have taken the orders of e Government. The Board is requested to examine the case afresh d report to the Government --

(1) whether the allowance may be readmitted; and

(2) whether a payment of arrear claim may be sanctioned and if so, with effect from what year.

3. The Board is requested to keep its orders re-admitting the llowance in abeyance pending further directions.

B.G. Holdsworth,
Secretary to Government.

o the Board of Revenue.

Forwarded
(By Order)

Superintendent

Allowances - Taxation - (South Kanara) - Coondapur Tk. - Patala Durga Parameshwari Dev at Kulanji Vge. - Payment of arrears - Petition from the trustee - Report.

Read 1. 2798 Govt. Memo. No. 278 B/39-2 dated 12-6-39.

Ref. I. 576/39-2 dated 24-6-39

With reference to the Memorandum from Govt. read above the Board recommends that the allowance may be readmitted as according to the Collector's report the institution has been in good state of repair and services have been regularly performed all along. The payment of arrear claim may be sanctioned with effect from 1935 (Fasli 1345) as recommended by the Collector. ~~owing to the reason that~~ After the allowance was struck off the register in 1929 the trustee did nothing until 1935 when he applied to the H.R.E Board for a 'Sanad'.

2. The Collector is requested to keep the orders issued in B.P. No. No. 3298 dated 20-10-37 readmitting

allowance in favour of the institution in abeyance pending further directions.

22/6/38 — 23/6/38

To the Secretary to Government
Revenue Department paras 1 & 2
(with a copy of the Collector's report ref. No. 5176-B1-37 dt 13-10-37)
1-1 of © B.P.No. 3298 20-10-37

To the Collector of South Kanara
para 2 only

14 JUL 1939
MADRAS

93423

D.Dis. 4444-39. South Kanara Collector's Office,
Mangalore, dated 12th July 1939.

From

Sri Diwan Bahadur M. V. Vellodi, B.A.,
Collector of South Kanara.

To

The Secretary to the Board of Revenue,
M a d r a s.

Sir,

ALLOWANCES--Tasdik--South Kanara--Coondapoor Taluk--Kulanji village--Patala Durga Parameshwari Dev--payment of arrears-

Reference:- Board's Ref. No. I-576-39-2, dated 24-6-1939.

******

The allowances due to the institution for Faslis 1345 to 1348 have already been disbursed. The Tahsildar of Coondapoor is being instructed to with-hold future payments pending further directions.

For Collector.

12-7-39

17 (F.W.S)

Allowances - Taxdik - (South Kanara).
Coondapur Tk. - Patala Durga Parameshwari Dev at Kulanji Vge. - Payment of arrears - Petition from the trustee

DESPATCHED 27 JUL 1939

p. 11 c. f. Read 1. 2798 Govt. Memo. dated 2-6-39
p. 13 c. f. " Bd's Ref. 1. 576/39-2 " 24-6-39
p. 15 c. f. " 1. 3423 from the Coll. of South Kanara

Ref. 1. 576/39-3 dated 24-7-39

In reply ~~With reference~~ to para 2 of the Memorandum from Govt. read above the Board submits that the Collector of South Kanara has reported that the allowances due to the institution for faslis 1345 to 1348 have already been disbursed and that the Tahsildar of Coondapur is being ~~has been~~ instructed to withhold future payments pending further directions.

the Secretary to Government
Revenue Department.

OFFICE OF THE BOARD OF REVENUE
1 - SEP 1939
Received.....1939

J4212 12 years

Government of Madras.

SECY.
Registered. 1 - SEP. 1939.

Abstract.

Allowances - Tasdik - (South Kanara) - Coondapur taluk - Patala Durga Parameshwari Dev at Kulanji village - Readmission of the institution and payment of arrears - Orders passed.

Revenue Department.

G.O. Ms. No. 2220., dated the 30th August 1939.

Read the following:-

M.3-5c.f (copy) From Sri D. Subba Rao, dated 11th January 1939.
J.1c.f Endorsement to the Board of Revenue, No.278-B/39-1, dated the 24th January 1939.
M.7-10c.f From the -do- No.I.576/39-1, dated 6th March 1939.
J.11c.f Memorandum to -do- No.278-B/39-2, dated 2nd June 1939.
M.13-14c.f From the -do- No.I.576/39-2, dated 24th June 1939.
J.17c.f From the -do- -do- 3, dated 24th July 1939.

ORDER.

In the circumstances reported by the Board of Revenue in its References No.I.576/39-2, dated the 24th June 1939 and I. 576/39-3, dated the 24th July 1939, the re-admission by the Board of Revenue of the lapsed allowances of Rs 24/- (Rupees twenty-four only) per annum payable to the institution of Patala Durga Parameshwari Dev at Kulanji village in Coondapur taluk, South Kanara district is ratified. Arrears of the allowance should be paid for a period of twelve fasli years preceding the fasli year in which the memorialist first made his application for re-admission. The payment should be made by beriz deduction to the trustee of the institution and should be continued only so long as the services are rendered properly and regularly. The allowance for each fasli year should be paid only after the close of the fasli year, after verifying that services had been regularly performed during that year.

2. The petitioner is referred to the Board of Revenue for orders on his petition dated the 11th January 1939.

(By Order of His Excellency the Governor).

B.G. Holdsworth,
Secretary to Government.

To the Board of Revenue.

To the Board of Revenue.
" - ~~Education and Public Health Department.~~ -
" Finance Department.
" Accountant-General, through the Finance Department.
To Sri B. Subba Rao, s/o. B. Mahabaleswara Ayyar, residing in Basrur village, Trustee, Patala Durga Parameshwari Dev at Kulanji village, Coondapur taluk, South Kanara District.

True copy.
Forwarded/By Order.

Superintendent. 31/8/55

(F.W.S)

Allowances – Taxation (South Kanara)

Coondapur Tk. – Patala Durga Parameshwari Dev at Kulanji Vge. – Readmission of the institution and payment of arrears. Orders marked – G.O communicated

Read again B.P. Mis. 3½98 dated 20-10-37 (C)

" " Bd.'s P. Dis. I.4287/38 dated 31-10-38 (M)

" I.4212 G.O. No. 2220 Rev. dated 30-8-39 A

Rev. Mis No 2595 dated 12-9-39

Communicated to the Collector of South Kanara.

2. The petitioner is referred to the Collector for orders on his petition to Govt. dated the 11th January, 1939.

To the Collector of South Kanara

To Sri B. Subba Rao S/o B. Mahalaxmeshwaraya residing in Baerar Vge – Trustee, Patala Durga Parameshwari Dev. at Kulanji Vge Coondapur Tk. South Kanara Dt. (Kara 2 orders)

Note file

M.1 — Allowances - Jasdik - (South Kanara) - Coondapur Tk - Patala Durga Parameshwari Dev at Kulanji Vge - Payment of arrears - Petition from the trustee

A.S (Sett.)

ff 1-6 c-f — Read D. 576 Govt. Endt. No. 278 B/39-1 dated 24-1-39 and the petition.

To A.S (Sett.)

f 1 c-f — The Government have called for the Board's remarks on the petition from the trustee of Patala Durga Parameshwari Dev at Kulanji Vge. Coondapur Tk. South Kanara Dt. This is an appeal by the trustee against the Board's orders in its R. Dis. D. No. 4287/38 dated 31-10-38. A deduction of Rs. 24 is payable annually for the institution. The allowance was struck off the registers in the Collector's D. Dis. No. 379-29 dated 21-6-29 under B.S.O. 67-1(V) for failure of the trustee to claim the allowance for more than six years. The petitioner applied to the H.R.E Board, Madras for a Sanad in Sep. 1935 and was appointed as trustee of the temple in 1936. He then applied to the Collector for the readmission of the institution and payment of arrears left undrawn. In B.P. Mis. No. 3298 dated 20-10-37 the Board sanctioned the

f 13 (M)

f 11 (M)

f 444 in S. of 11

f 11 (M)

f 8 (C)

readmission of the institution from fasl 1345, the year in which the petitioner applied for the Sanad as recommended by the Collector.

2. The petitioner subsequently applied for the payment of all the arrear from fasli 1330 from which year the allowance had remained undrawn. The Collector in his J. Dis. 2089/38 dated 16-5-38 f. 7 (M) disallowed the petitioner's claim, as the records showed that the failure to claim the arrears arose out of neglect & not from disability informed the petitioner that there were no good grounds to move the Board again in the matter and so rejected the petition. para 2 - p 11 of (M)

3. In August 1938 the petitioner approached the Board for the payment of arrears of tasdik allowance from fasli 1330 or for the 12 years prior to fasli 1345. The petition was referred to the Collector for remarks with reference to the provisions of B.S.O No. 67-1(7). He reported that the allowance was struck off the registers with reference to B.S.O 67-1(7), as the whereabouts of the then mokteser were not known and as he was said to be residing over the ghauts and as such the failure to claim the allowance in time arose out of neglect and not from disability. Vide B.S.O No. 67-1(7). The Board ~~accepted the Collector's recommendation and~~ rejected

f. 1-5 (M)

f. 444 (M)

f. 9 (M)

f. 11 (M)

f. 444 E (M)

f. 12 (M)

the petition, as no new facts had been adduced for a reconsideration of the orders already passed.

4. In the circumstances a report may be submitted to the Government on the lines suggested above and the Government may be informed that the petition deserves no consideration.

For orders

ARS 11/2 CD 13/2/39 [illegible] 1939

16/2 M-1

A.S (Sett)

To A.S (Sett.)

Draft submitted.

ARS 23/2 CD 24/2/39

Para 4 of the draft concludes with the statement that the Board rejected the petition as no new facts had been adduced for reconsideration of the orders already passed. But it is open to the petitioner to approach the Board at any time within the maximum limit of three years. It is seen from the file that [illegible]

[illegible]

To A.S (Sett.)

It is submitted that no petition was submitted to the Board before August 1938 for payment of arrears. Vide Lr. Dis. No. 4287/38 dated 31-10-38 the Board rejected the petition declining to interfere with the orders already passed by the Collector. Para 4 of the draft has been

~~incorrected~~. The draft may now be approved.

Bs
13 6/3/39
3 6/3/39

hrs 4/3/39

Issued as Board's Ref. I. No. 576/39-1 dated 6-3-39 ff. 7-10 C.f.
Govt. I. 2798 Govt. Memo. No. 278 B/39-2 dated 2-6-39 f. 11 C.f.

To A.S (Sett.)

A.S(Sett.)

According to condition (i) in clause 7 of B.S.O. No. 7-1 claim to a lapsed allowance should be readmitted only if the failure to apply for payment, when it fell due, arose not from neglect but from disability. As this provision was not satisfied in this case the cla... of the institution to lapsed allowances should not have been readmitted without the sanction of Govt. But the precedents in this office showed that in readmitting lapsed allowances the condition (i) in clause 7 of B.S.O. No. 67-1 was not applied but that conditions (i) and (ii) of B.S.O. No. 67-1 were applied for the payment of arrears. Recently it was ruled that the precedents were all wrong and must not be followed and that Sanction of Govt. should be obtained for the revival of payment.

f. 3 n.f. n.t. (I. 1772/37

2. The Govt. desire the Board to examine

the case afresh and to report to them (1) whether the allowance may be readmitted; and (2) whether a payment of arrear claim may be sanctioned and if so, with effect from what year. In B.P. Mis. No. 3298 dated 20-10-37 the allowance was readmitted in favour of the institution and sanction was accorded for the payment of arrears with effect from Fasli 1345 the year in which the petitioner applied to the H.R.E. Board for the Sanad. The Govt. may be informed accordingly.

A

In para 3 of their Memo. at p. 11 c. of the Govt. request the Board to keep its orders readmitting the allowance in abeyance pending further directions. The Collector may be instructed accordingly.

MN

For orders

16/6

(c) – p. 1 c. 4 para 2

19/6/39

A (1) A copy of the Collr's report dt 13.10.37 may be subtd to Govt. As accg to that report the institn has been in good state of repair and services have been regularly performed all along, it may be recommended that the allowance may be re-admitted

– do –

(2) After the allowance was struck off the register in 1929, the trustee did nothing until 1935 when he applied to the H.R.E. Board for a 'sanad'. As recommended by the Collr, payment of arrear claim may be sanctioned with effect from (Fasli 1345).

To be read from (4)

20/6/39

21/6/39 J.S

To A.S (Sett:) - A.S (Sett.)

Please see the orders overleaf.

Draft submitted.

ARS 22/6 22/6/39. 23/6/39

Issued as Bd.'s Ref. J. 576/39-2 dated 24-6-39 | p. 13-14 c of f
Read J. 3423 from the Collector of South Kanara | p. 15 c. of.

To A.S (Sett:) A.S (Sett.)

The Govt. may be informed of the Collector's report at p. 15 c. of with reference to para 2 of their Memorandum at p. 11 c. of

Draft submitted.

ARS 26/7 26/7/39.

P.170 of Issued as Bd's Ref. I. 576/39-3 dated 24-7-39
Read I. 4212-G.O. Mis. No. 2220 Rev. dated 30-8-39

M.S. (Contd.)

in the year of the Court have ordered that the arrears of the allowance in favour of the institution should be paid for a period of twelve years immediately preceding the year in which the memorialist first made his application for readmission (G.O. Ms. No. 3298 dated 20-10-37) the Board sanctioned the readmission of the allowance in favour of the institution and the payment of the allowance with effect from 1937-38 as recommended by the Collector. In his letter Ref. No. B176-B1-37 dated 13-10-37 the Collector stated that the trustee of the institution who became manager in 1926 (now applies for the readmission of the allowance). The date on which the trustee first made his application for readmission was not stated. The Collector may therefore be asked to report on this point.

3(c)

Proceedings.

The G.O. may be communicated to the Collr. and the petn. referred to him for orders.

8/9/39

To H.S (Sett.)

Please see the note overleaf. H.S (Sett.)

Draft sent/submitted.

19 Oct 1989. 11/9/89

B.P.No. 2595 Dated 12-9-39

Single Member M 1
Two Members
~~Full~~ Board.

	I-A.	A.D.S. & L.R.	Asst. Secretary. Land Rev.	Sett.	Sep. Rev.	J.S.	S.	M 4	M 3	M 2	M 1
1. Open file seen by				✓		✓					
2. Final draft seen by				✓							
3. Now circulated to.											
4. Initials.											

Passed for record.

Secretary.
Joint Secretary.

A.S. (C.~~W.~~)
~~A.S.~~ (L.R.)
A.S. (Sett.) hod 30/9/41
A.S. (Excise)
A.D.S. & L.R.
~~I.A.~~

Note:- Entries not required to be scored out.